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TRYING A NEW TACK

Release of Yamani On Writ Again Asked.

SUPREME COURT WILL SIT TODAY

Judge Gear Severely Scores Por- tuguese Who Deserted His Wife for Her Sister.

Unable to defeat the ends of justice through the release of nearly a dozen criminals by Judge Gear, the attorneys for the prisoners have adopted a new method of attack which the Attorney General will be compelled to resist today. Yesterday afternoon Attorney F. M. Brooks appeared before Judge Gear with an application for a writ of habeas corpus for the release of Yamani, one of the Kahuku Japs, who was first given his freedom by the order of the Circuit Court and then rearrested by High Sheriff Brown.

The writ was signed by Judge Gear and is made returnable before him at 9:30 o'clock this morning.

The petition for a second writ of habeas corpus is based upon the alleged illegal imprisonment of Yamani, and the denial of a speedy trial. It is claimed that the applicant for the writ has always been ready and anxious for a hearing, but that this has been denied to him and he is held, without due course of law, there being neither an indictment by a grand jury or a commitment by any magistrate.

It will be remembered that application was made before Judge Wilcox for a hearing by these various defendants, but it was refused because the grand jury was in session at the time, and it has always been the practice of the District Court not to try prisoners on an indictable offense when the grand jury is in session and may act directly on the cases brought before it. The presentation of the cases of these men to the grand jury and the consequent denial of speedy trial, can hardly be attributed to any one, but the court which ordered the discharge of the grand jury, on the very day that they announced their intention of taking up these very cases, in which the Attorney General had his witnesses in readiness. SUPREME COURT CONVENES TO-
DAY.

The Supreme Court will meet today in adjourned session. It is not unlikely that the decision in the habeas corpus cases will be handed down from the bench, as the opinion was expected to be ready yesterday. It is stated by those who claim to know, that the court will overrule the opinion of Judge Gear and remand the prisoners back to prison. As to the alleged disqualification of Judge Perry, these same know-it-alls say that the opinion will have to do with only the case of the one prisoner who was not before Judge Perry on the original hearing. Judge Galbraith is expected to give a dissenting opinion.

MAGOON VS. HARRISON.

The arguments in the case of Magoon vs. Harrison were concluded about 4 o'clock yesterday afternoon, and the court adjourned for the day. He reserved his decision on the motion of defendant for non-suit.

THE NUNEZ DIVORCE CASE.

Judge Gear from the bench yesterday announced his firm intention to break up, as far as is in his power, the practice of adultery in Honolulu, and it is not at all unlikely that the next grand jury may be instructed to look into some of the most flagrant abuses of the law. The Nunez divorce case was the particular subject which called forth the strong charge of the court, but this is the only case of which judicial notice has been taken. All the evidence in the case was taken down by Court Reporter Case, and by the order of the court will be presented to the High Sheriff today, with a recommendation that he take action in the matter. Both Nunez and his sister-in-law, with whom it was alleged he was living in open adultery, were brought into court at noon yesterday and placed on the stand. Both were informed that they would not be compelled to incriminate themselves in their answers, and the husband, in accordance with this instruction, refused to answer when the court put direct questions as to his guilt. The woman, Maria Sylvia, on the other hand, unblushingly denied that she had been living with Nunez as his wife, though she admitted that he was living in the same house, for which he paid the rent, besides giving her money for board. She said she was living "not quite alone" and when questioned further said, "I have a child."

"Why did you leave your wife?" asked the court of the husband, who was put on the stand first.

"Because her temper was too high," was the answer.

"How about her sister's temper?"

"I don't know anything about it."

"Has she as great a temper as your wife?"

"I don't know."

"You are living with her, aren't you?"

"Well, not exactly that."

In passing upon the case Judge Gear said:

"It may be this home will be broken up that has been illegally established between these parties. This man, when he married, took an obligation upon himself to support this woman, his wife, and no man, who is able, is going to get

out of that obligation before this court, and certainly not when he thinks that he can not only do that but, set up another house with another woman. This court will not be a party to anything of the kind. It was only after hard work that the court got out of the plaintiff the true state of affairs that existed in this case. The court did it to find out the reason the husband had deserted this woman, and, in doing so, found an awful condition to exist. It finds that the husband is living in the same house with the sister of the wife. It is an outrageous condition of things in a Christian community. It seems to me if the Marshal's office started out on some of this kind of business it would look better than to be arresting people for fast driving. It was only a few days ago the court had occasion to hear and pass upon a case of this same nature, when the man threw off his old wife because he was tired of her and took a new woman. That thing will be stopped in this court if I have the power to prevent it. Wonderful things are happening, and the power of this court is being curtailed every day. It will be curtailed in a day or two by a decision of the higher court, but this court is going to carry out its duty irrespective of decisions or persons. If the evidence shows these people are violating the law this court will do what it can to stop it and bring to their senses these people who think they can openly defy not only the law of God, but the laws of our statute books. I say it shall stop. A man who can pay two or three dollars a week for a room in the house for which he pays twenty-five dollars a month rent is certainly able to make some provision for his wife and child. I guess he will be able to let the woman with whom he is, rent that room to somebody else, and pay that money to the plaintiff.

"The court grants the divorce on the grounds alleged in the complaint, desertion and non-support of plaintiff by the defendant, and finds the facts alleged in the complaint to be true; that the defendant did willfully and without just cause desert the plaintiff and that he is sufficiently able to provide maintenance and support for her, and for the eight months last passed has neglected and refused, and still neglects and refuses to do so. The court grants the divorce, and awards plaintiff the care, custody and control of the child, and orders that the defendant pay the costs of the suit, an attorney's fee of twenty-five dollars, and further orders that he pay ten dollars a week to the plaintiff for the support of herself and his child. He will pay the costs forthwith, and the attorney's fee of twenty-five dollars, and ten dollars a week to the plaintiff on the first day of each and every week commencing with Monday next, until further order of this court. I presume that may cause him to give up the house where Mrs. Silva lives, and may cause Mrs. Silva to take up some other abode and go to work, but this court cannot help that. The court will sign a decree in accordance with this oral decision."

At the conclusion Mr. De Bolt, attorney for the defendant, said:

"I ask leave to except to the decision of the court as being contrary to the law and evidence and the weight of evidence. I understand that to be the practice."

"I don't know," replied the court. "The case was tried and defaulted. I don't know as there is any appeal from it."

"There is no default in divorce cases."

"Of course there is no default, but there was no answer. There was no defense."

"Mr. Correa appeared."

By the court: "The court will hold that it will not stay the order of this court, and this order with regard to the payment of this money will be enforced."

DIVORCE AFTER THIRTY YEARS.

After living together for thirty years Margaret West asks a divorce from Frederick Britton West on the ground of cruelty. In the papers filed with the Circuit Court yesterday, it is alleged that the couple was married in New York, Oct. 17, 1871. It is also charged that since coming to Honolulu in August, 1896, libelous has refused to provide maintenance for libelous, and various charges of assault are made, giving specific dates. All the children except one are of age.

DEMURRER IN DESKY CASE.

A demurrer has been filed in the case of Kapilani Estate vs. Charles S. Desky, foreclosure on the Progress Block, in which defendant claims that his wife has not been made a party to the suit, and that no demand has ever been made upon him for an accounting.

THE CONGDON ESTATE.

Bishop & Co. have made application for the appointment of Charles Phillips as administrator in the estate of Henry Congdon, deceased. The value of the estate is given as \$5394.

COURT NOTES.

Appeals have been filed in the Circuit Court in the case of the Austin Publishing Co. vs. Healan Yacht and Boat Club, a suit for payment of a bill for printing the minstrel program. The defense was, that the charges were exorbitant. The appeal is from the decision of Judge Dickey allowing plaintiff \$88 and court costs.

Plaintiff has filed an appeal in the case of H. G. Middleitch vs. Isaac Harbottle et al, action on note for \$250. A new question is likely to be raised in the higher court, as the judgment for defendant by Judge Dickey was on the ground that the note had not been properly stamped. The note was again offered in evidence, with the revenue stamp affixed, but was not allowed.

Appeal is taken by defendant in the case of J. H. McKeechle vs. John F. Colburn, on account.

Appeal has been filed in the case of J. F. Morgan vs. Mrs. F. C. Better in which the amount involved is but \$325. The court costs already amount to nearly twice that sum. The suit is on a lamp and matting sold at auction, which were not delivered, and for which defendant refused to pay.

FITCH FILES A BRIEF.

Thos. Fitch filed a brief yesterday in the Twelfth injunction case in which he brought up a new question; namely the right of an appeal from the Supreme Court of Hawaii to the United States Court of Appeals. He said:

"Since in the Twelfth case 'the injunction was continued' by Judge Gear, there may be if the case should be appealed to the Territorial Supreme Court—an appeal from the Territorial Supreme Court to the United States Court of Appeals, it follows that this court must in every stage of the proceedings be governed by the decisions of the United States Supreme Court, and that court has, in Olerich vs. Spain, decided that counsel fees cannot be recovered in an action on injunction bond. It may be a matter of regret that the final decision of Hawaiian cases should not be left to the Territorial Supreme Court, but Congress has seen fit to make of that court an intermediate appellate tribunal—a half-way house on the road to the court of last resort—by the law of Congress we must abide."

No Meeting of Board of Health.

The Board of Health again failed of a quorum yesterday, and an adjournment was taken to next Wednesday. President Wight of the Wilder Steamship Co. was present ready to offer his bid and suggestions regarding transportation to Molokai, but in the absence of a quorum no action was taken.

SOUVENIR DAY

—AT—

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Our Mr. Whitney found them in New York and brought them home with him to give to our friends. On
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It is plain that there can be no unfairness about this method of distribution. Every picture and every coupon has a printed number which cannot be effaced or altered. The pictures are all arranged indiscriminately in our window, and we ourselves do not know the number of any particular picture.

Picture No. 1 will go to our first customer; picture No. 2 to our second customer, and so on until the hundred have been given out. No customer may have more than one coupon, no matter how large her purchase may be. We establish a minimum purchase amount of a dollar merely that the pictures may go into the hands of our bona fide customers.

The pictures will be displayed in our windows all this week. They are all of them really works of art and well worth framing and preserving in any home.

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A FIRE JURY IS SUMMONED

Will Investigate the Recent Blaze
At the Stock Yards
Stables.

High Sheriff Brown summoned a fire jury yesterday to investigate the cause of the Stockyards stables fire. The jury was made up of J. A. Gilman, E. McInerney, A. J. Campbell, T. W. Hobron, W. Dillingham and Harry Whitney.

The jury was summoned in accordance with the following provision of the Penal Laws of 1897:

The Marshal of the Republic or his deputy or any sheriff, or district magistrate within whose jurisdiction any fire has occurred whereby any house or other building or any cane field land or forest in such jurisdiction has been wholly or in part consumed shall inquire into the cause or origin of such fire and ascertain whether it was kindled by design or resulted from negligence or accident, provided that no such inquests shall be held in any case unless such officer shall have reasonable grounds to suspect that such fire was the result of culpable negligence or of design or occurred under such circumstances that the interests of justice and the protection of property require an investigation.

The said officers may summon and empanel a jury of not less than three nor more than six persons from among the householders or freeholders residing in the district to hear the evidence which may be adduced touching or concerning such fire and to render a verdict under oath thereupon, according to the facts.

The jury met at the police station at noon. Joseph Gilman was chosen foreman. The meeting adjourned until 1:30 o'clock, when business was transacted behind closed doors.

Among the witnesses summoned were Manager Rice, Joe Silva and several other employees of the stables.

COURT OF FIRE CLAIMS.

The Japanese Claimants Not so Well
Fixed as Hawaiians.

The court of fire claims heard Japanese cases yesterday. The claimants did not appear to have the extensive wardrobes of many Hawaiians, but some of them placed a rather high valuation on household effects. The questions were directed chiefly to the date of their arrival in Honolulu, and the wages they had been getting. In this manner it is expected to show how much property they could have possessed, the amount of money they brought along with them being a matter of record. Chester Doyle acted as interpreter during the day. One of the Japs was questioned as to his earning abilities, and also as to those of his wife.

"How much does she earn?" was asked the claimant.

"Three dollars and a half a week," he replied.

"Is she earning that much now?"

"No," was the reply, and the court was beginning to see a new light.

"Why?" was the next question.

"She's dead," was the answer as interpreted, and he was excused from further testimony.

Wade's Case.

George Wade, released by Judge Gear on writ of habeas corpus, was arraigned before Judge Wilcox yesterday and had his case continued to Wednesday. Wade is placed in a very peculiar position by his release and re-arrest and stands an even chance of a worse fate than his imprisonment on a second trial. He pleaded guilty to a charge of murdering George Gillespie, a steward on the Australia, in order to save his neck, and on a second trial he may not fare so well. Wade will not disclose the name of the friends who are helping him in the matter, but it is believed to be members of the old opium smuggling gang to which he is alleged to have belonged.

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5932 Corner Queen and Alaka Sts.



AN IMPORTANT MEETING OF Honolulu Lodge No. 614, B. P. O. E. will be held at Progress Hall, Fort Street every Monday evening at 7:30 o'clock.

All Elks are requested to be present. By order of the E. R. H. D. COUZENS, Secretary

NEW MAP OF OAHU
By JAS. T. TAYLOR, M. Am. Soc. C. E. 38 x 52 inches.

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